

1 TROY SMITH,

2 Petitioner,

3 v.

4 KEVIN CHAPPELL, in his capacity as Warden
5 of the San Quentin State Prison,

6 Respondent.

7 No. C 11-01791 SI

8 **ORDER DENYING REQUEST FOR
9 APPOINTMENT OF COUNSEL**

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12 Petitioner requested appointment of counsel on December 12, 2013. Docket No. 34. A district
13 court may appoint counsel to represent a habeas petitioner whenever "the court determines that the
14 interests of justice so require" and such person is financially unable to obtain representation. 18 U.S.C.
15 § 3006A(a)(2)(B). The decision to appoint counsel is within the discretion of the district court. *See*
16 *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986). Appointment is mandatory only when the
17 circumstances of a particular case indicate that appointed counsel is necessary to prevent due process
18 violations. *See id.* The interests of justice do not require appointment of counsel in this action. The
19 request for appointment of counsel is DENIED.

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21 **IT IS SO ORDERED.**

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23 Dated: February 6, 2014

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26 SUSAN ILLSTON
27 UNITED STATES DISTRICT JUDGE

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